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1 saying, I can't convey my thoughts on paper. And,
2 then I turned around and came to the meeting with
3 paper. She questioned that. And, then she was very
4 upset that I read it from the paper.

5 And, then she asked Ms. Brown how she
6 felt, and she reiterated the same thing.

7 And in that meeting it was said that
8 nothing -- you have said nothing to convince us about
9 this move. So we're going to go forward.

10 Q. So you didn't use the word race. You
11 didn't say, I feel like I've been discriminated
12 against because of my race. You used the words that
13 you've just described in your testimony?

14 A. Yes, that there was some fear of
15 retaliation, and that's what happened.

16 Q. When is the last time you talked to REDACTED
17 REDACTED about this litigation?

18 A. About a week ago.

19 Q. Well, what did you discuss with her?

20 MS. BREWINGTON: I'm going to object
21 on the grounds of relevance.

22 BY MR. WILLIAMS:

23 Q. Do you anticipate that REDACTED will
24 be a witness in this case?

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1 A. Yes. Absolutely.

2 Q. What did you discuss with REDACTED ?

3 A. We discussed her testimony.

4 Q. What did you talk about with regard to
5 that testimony?

6 A. Is this -- do we want to go on
7 confidential?

8 Am I allowed to say what --

9 MS. BREWINGTON: Oh, it's up to you
10 guys. We can go off the record for a little bit.

11 (Discussion off the record)

12 (Thereupon, the following testimony
13 was deemed to be confidential and placed under
14 separate cover:)

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1 O P E N S E S S I O N

2 (Thereupon, the confidential section
3 of the deposition was concluded, and the deposition
4 proceeded as follows:)

5 BY MR. WILLIAMS:

6 Q. Do you receive performance evaluations?

7 A. From where, Del Tech?

8 Q. Yes.

9 A. Yes.

10 Q. How frequently?

11 A. Annually.

12 Q. How would you characterize your
13 evaluations?

14 A. Excellent.

15 Q. And has that been the case throughout your
16 employment?

17 A. At Del Tech?

18 Q. At Del Tech.

19 A. Yes.

20 Q. If we went over and reviewed each of the
21 written communications, as I did yesterday, that took
22 place concerning the move between the time you were
23 informed of the move on August 12th to the time that
24 you filed your charge, would you agree with me that

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1 we would not see statements in those written
2 communications that were prepared by you or prepared
3 by Brigitte Brown that talked about race, but rather
4 talked about employee morale, productivity, employee
5 relations, feeling being punished, the feeling of
6 being treated unfairly, as you've described earlier
7 in your testimony, but we wouldn't see anything about
8 race --

9 A. No, that's not true.

10 Q. -- prior to the time of the filing of the
11 charge?

12 A. No, that's not true.

13 Q. Would we see the word race?

14 A. Yes, I showed you earlier. If you look at
15 when I filed the grievance, it referenced to the
16 statement of affirmative action, and, then -- and if
17 you look at the policy, it talks about the Civil
18 Rights Act of 1964.

19 And if you look at the last page, it
20 talks about the -- in reference to the policy where
21 it says, non-discrimination, that talks about race.
22 I said that policy was violated.

23 Q. Listen to my question. Maybe you
24 disagree. My question was, documents that related to

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1 the move, do you view your grievance as related to
2 the move?

3 A. Okay. No.

4 Q. Documents between the time you learned of
5 the move on August 12th, until the time you filed
6 your charge of discrimination in mid October, all the
7 documents that you prepared or prepared by someone
8 else in UBMS, and were provided to upper management,
9 none of those talked about race.

10 They talked about employee morale and
11 productivity and unfair punishment, but not any
12 allegation of discrimination on the basis of race?

13 A. I equate words like being treated
14 differently and unfairly to race.

15 Q. You equate that to race --

16 A. Yes.

17 Q. -- but you wouldn't find in those
18 documents, nor were there oral communications where
19 there was a claim of race discrimination. The claim
20 was unfair, treated differently, inequality, those
21 kinds of words?

22 A. The word race, no. You won't see that in
23 the documents, but that's my words that equate to
24 that.

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1 Q. Did anyone in management at the college
2 ever tell you that decisions about moving employees
3 or programs were based upon seniority?

4 A. I'm sorry. Repeat that.

5 Q. Did Paul Morris or Sue Zawislak or Ann Del
6 Negro, or anyone else in management at the college,
7 ever tell you that decisions about moving people were
8 made based upon their relative seniority?

9 A. No.

10 Q. As of September of 2002, do you know what
11 the racial composition was of the CCP employees at
12 the Wilmington campus of the college?

13 A. CCP?

14 Q. Yes.

15 A. No.

16 Q. Did I understand correctly your earlier --
17 do you have an associate degree from Widener?

18 A. No, I have an associate degree from
19 Community College of Philadelphia. And I have a
20 4-year engineering degree from Widener University.

21 Q. Let's go back to the Complaint which has
22 been marked as Cole Exhibit 1. I think it's in your
23 stack, hopefully. If not, I'll give you another
24 copy.

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1 You have it. In paragraph 21 of the
2 Complaint, but it's not paginated, so I don't know
3 what page it is, you talk about the fact that Room
4 408 had been Ann Del Negro -- was at one time Ann Del
5 Negro's single office; is that correct?

6 A. This is not -- it looks like this was
7 merged, and it's not -- this is not my statement
8 there. The document was merged.

9 What was your question again, I'm
10 sorry.

11 Q. Paragraph 21 says that the office that
12 UBMS group was being forced to move into, had been
13 Ann Del Negro's former single office?

14 A. Yes, I agree with that.

15 Q. It was not Ann Del Negro's office
16 immediately prior to UBMS group moving into 408, was
17 it?

18 A. No.

19 Q. In fact, it had been occupied by a program
20 called To the Max, which ceased to exist because of
21 funding issues, and, then it became SOAR?

22 A. I don't know about it ceased to exist. I
23 know that it was To the Max and, then SOAR.

24 Q. And when To the Max was in there, there

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1 were about -- there were two full-time Coordinators
2 occupying the space that you currently occupy -- you
3 and others currently occupy?

4 A. Two full-time African American
5 Coordinators, and one, sometime, secretary.

6 Q. Paragraph 22, I think, is talking about
7 the meeting that you described with Ann Del Negro
8 when you were reading from a piece of paper, and
9 talking about employee relations, morale,
10 productivity --

11 A. Yes.

12 Q. -- treated unfairly, unequally, ulterior
13 motives; that's an accurate allegation?

14 A. Yes.

15 Q. And prior to your being moved to Room 408,
16 you occupied a small office on kind of the opposite
17 hallway from where Room 408 is located?

18 A. Well, it's not sort of opposite. It's
19 sort of across the hall. But, yes, we did occupy --

20 Q. The hall goes in a square?

21 A. Right.

22 Q. And you were at the southwest corner of
23 that square, your former office?

24 A. Yes, at the end where 408 is is north

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1 central, I guess.

2 Q. And you were in a small office just about
3 big enough for you and your furniture and equipment,
4 not much else?

5 A. No.

6 Q. Pardon me.

7 A. No.

8 Q. That's incorrect?

9 A. Yes.

10 Q. How large would you say that office was?

11 A. Well, I can't say how large, but there
12 were times that I had students and parents come in
13 and sit down and we would close the door and have a
14 private conversation. There may be some issues at
15 the dorms that we need to discuss.

16 Q. Did you measure that office?

17 A. Did I measure the office?

18 Q. That you occupied before you moved to 408?

19 A. I think we did collectively, me and my
20 coworker.

21 Q. Did you keep those measurements?

22 A. There was a diagram floating around with
23 those measurements, and I think they were in -- I
24 didn't include them, but I think my coworker may have

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1 included them with the Complaint.

2 Q. In paragraph 77 of the Complaint, you
3 claim that you are suffering a loss of considerable
4 pay. What is the loss of pay that you are suffering?

5 A. Well, there's the promotion of Paul
6 Morris, and I'm not sure how long -- I hear it in
7 testimony. I'm not sure how long he was promoted,
8 but he went on to get other promotions.

9 I think that I should have been
10 afforded the opportunity to -- Brigitte and myself
11 should have been afforded an opportunity when REDACTED
12 REDACTED , which we thought at the time, resigned.
13 And when they brought in Jacquita Wright Henderson,
14 she came in as acting. I felt that I should have
15 been afforded an opportunity to become acting, or Ms.
16 Brown become acting.

17 Q. Well, we'll come back to that. In
18 paragraph 80 you talk about, or you allege that the
19 college denied career advancement opportunities by
20 denying his request for promotion. Which request for
21 promotion are you talking about?

22 A. That's another, I think, mistake there.
23 That document was merged from another -- maybe Ms.
24 Brown's claim.

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1 Q. Because you never requested a promotion?

2 A. No.

3 Q. This document talks about in paragraph 77,
4 and also it talks about humiliation, mental anguish
5 and emotional pain. Is that another mistake, or --

6 A. Oh, no. That's two different issues.

7 Q. Do you have a claim for mental distress,
8 humiliation?

9 A. Oh, no, that's another piece that was
10 merged. No, the mental anguish and emotional stress
11 is Ms. Brigitte.

12 Q. So you're telling me you have no such
13 claim for damages?

14 A. Well, I have a claim for damages, yes.

15 Q. For --

16 A. I'm looking at compensatory and punitive.

17 Q. Do you have a claim for damages arising
18 out of humiliation, mental anguish and emotional
19 pain?

20 A. Yes.

21 Q. I may have given you a copy of this
22 earlier, but perhaps not. This is a copy of your
23 response to Answers to Interrogatories filed in this
24 case. It's been marked for identification as Cole-2.

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1 You reviewed these Answers before you
2 signed?

3 A. To the best of my ability.

4 Q. And you signed an affirmation on October
5 31, 2005, saying that the facts stated in this
6 document are true and correct to the best of your
7 knowledge and belief?

8 A. Yes.

9 Q. And you carefully reviewed the document in
10 order to get it right before you signed that?

11 A. I think that I did. There's so many
12 documents.

13 Q. On page 5, going over to the top of page
14 6, you were asked to identify expert you've
15 consulted, and the answer is, no expert witnesses
16 have been identified at this time. Is that still
17 true?

18 A. Yes.

19 Q. Paragraph 5 at the bottom of page 6, the
20 question is, describe in detail the types and amounts
21 of all damages you are seeking, setting forth the
22 calculation of damages you are seeking in this case
23 in detail and the manner in which you calculated such
24 damages.

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1 Your answer is, Plaintiff is unable to
2 determine an exact amount of damages at this time.
3 When Plaintiff is in a better position to determine
4 or approximate total damages, the information will be
5 provided.

6 Are you able to answer that question
7 now, and tell us what damages you are seeking, and
8 how you arrived at that number?

9 A. No, I just mentioned compensatory and
10 punitive, and that's where I may need an expert to
11 help sort of calculating those numbers and generating
12 what we think would be an appropriate amount.

13 Q. Are you aware of the fact that the
14 deadline for identifying expert witnesses has come
15 and gone in this case?

16 A. No.

17 Q. So are you telling me that you don't know
18 what damages you suffered?

19 You're unable to tell me how much.
20 Forget about punitive damages. As I mentioned to you
21 a few minutes ago, you're claiming lost salary. What
22 is the amount of your lost salary claim?

23 MS. BREWINGTON: Objection.

24 BY MR. WILLIAMS:

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1 Q. What is the amount of your lost salary
2 claim?

3 A. Well, I can't at this time give you a
4 figure.

5 Q. Do you have a plan on giving us a figure
6 sometime?

7 A. Yes.

8 Q. And when would that be?

9 A. When would that be. Whenever it's the
10 appropriate time.

11 Q. How much income did you earn in 2005 from
12 your business that you operate that you described?

13 A. From my business?

14 Q. Yes.

15 THE WITNESS: Is this confidential
16 here under seal, or, I mean do I --

17 MS. BREWINGTON: If you'd like it
18 under seal, we can certainly do that.

19 (Thereupon, the following testimony
20 was deemed to be confidential and placed under
21 separate cover:)

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1 O P E N S E S S I O N

2 (Thereupon, the confidential section
3 of the deposition was concluded, and the deposition
4 proceeded as follows:)

5 BY MR. WILLIAMS:

6 Q. How are you paid currently?

7 Hourly would be a part-time employee
8 and you're paid for each hour that you work?

9 A. Correct.

10 Q. You're not paid by salary?

11 A. No.

12 Q. And from October, 2002 until the present,
13 there was obviously a time in 2003 when you were
14 working less than 29 hours a week; isn't that right?

15 A. Yes.

16 Q. You were working how many hours, 20 hours
17 a week?

18 A. Yes.

19 Q. How long did that go on?

20 A. September of 2002, I recall, till about
21 March or April of 2003.

22 Q. You were only able to work 20 hours a week
23 for health reasons?

24 A. Yes.

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1 Q. You would not have, during that period of
2 time, been able to fulfill the requirement of working
3 in a full-time position at the college?

4 A. I didn't know that in 2000 -- I didn't
5 know the illness was going to occur at that time.

6 Q. When did you first become ill?

7 A. It was end of August, I think it was.

8 Q. End of August, 2002?

9 A. Yes.

10 Q. And were you hospitalized for awhile?

11 A. Three days.

12 Q. And after you came out of the hospital, is
13 when you were working a reduced schedule?

14 A. Yes.

15 Q. Of about 20 hours a week?

16 A. Yes.

17 Q. So my question again is, as of that time,
18 end of August, September, and right through whatever
19 date it is you identified in 2003, you would not have
20 been able to fulfill the requirement of working in a
21 full-time position at the college?

22 A. On the doctor's orders, no.

23 Q. So in other words, my statement is
24 correct?

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1 A. To some extent.

2 Q. Well, to what extent is it incorrect?

3 A. Because you never know, looking at a
4 situation back then. I wasn't brain dead. I was
5 working -- the doctor's advised me to work reduced
6 hours. But I wasn't brain dead. So if I was offered
7 a position, or applied for a position, I would like
8 to think that I could work some things out with the
9 employer. Limited duty to some extent.

10 Q. So you would like to think you'd be able
11 to work something out, but the fact of the matter is
12 you wouldn't have been able to work full time?

13 MS. BREWINGTON: Objection.

14 THE WITNESS: That's not a fact.

15 BY MR. WILLIAMS:

16 Q. Well, you represented to the college that
17 you were only able to work 20 hours a week?

18 A. Part time.

19 Q. You were a part timer?

20 A. Right.

21 Q. The college wanted you to work more like
22 29 hours a week. You told the college you could only
23 work 20 hours a week, did you not?

24 A. On the doctor's orders, yes. But what I'm

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1 saying to you is that under the same circumstances,
2 offered a position, I don't know what the mind set
3 would have been at that time.

4 Q. Whose mind set, yours or your physician's?

5 A. Mine. Mine.

6 Q. So you represented to the college that you
7 could only work 20 hours a week under doctor's
8 orders, but you're suggesting that if you had a
9 different position, you would have been able to work
10 more hours?

11 MS. BREWINGTON: Objection. Calls for
12 speculation.

13 THE WITNESS: Right. That has nothing
14 -- to me, there's no correlation between the two.

15 BY MR. WILLIAMS:

16 Q. Well, you weren't misrepresenting the
17 facts to the college back in 2002 about your need to
18 work a limited work schedule, were you?

19 A. No.

20 Q. What you were representing to the college
21 was accurate?

22 A. At that time, yes.

23 Q. You were restricted --

24 A. But you're asking me to speculate about

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1 something in 2002.

2 Q. No, I'm not asking you to do that at all.
3 With the benefit of hindsight, the fact of the matter
4 is --

5 A. That's what hindsight is, speculation.

6 Q. The fact of the matter is that you were
7 unable to work a full-time schedule from August
8 through the balance of 2002 right through what date
9 in 2003?

10 A. Under those circumstances.

11 Q. Right through what date in 2003?

12 A. Oh, I said, I don't know. I think it was
13 March or April of 2003.

14 Q. And the circumstance was if you had a
15 different job what?

16 MS. BREWINGTON: Objection.

17 BY MR. WILLIAMS:

18 Q. What would have been the difference?

19 A. That's a hypothetical.

20 Q. Would you have been able to work full time
21 in the position of Director of Special Programs?

22 MS. BREWINGTON: Objection.

23 THE WITNESS: You know some people
24 don't follow doctor's orders. I can't speculate to

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1 say what I would have did back then.

2 BY MR. WILLIAMS:

3 Q. You would have not followed doctor's
4 orders under some circumstances?

5 MS. BREWINGTON: Objection.

6 THE WITNESS: I don't know.

7 BY MR. WILLIAMS:

8 Q. Your lost salary, which I understand to be
9 the difference between the salary you earned and the
10 salary you think you should have earned, what salary
11 do you think you should have earned and for what
12 period of time?

13 MS. BREWINGTON: Objection. He
14 already answered that he wasn't sure.

15 BY MR. WILLIAMS:

16 Q. What salary do you think you should have
17 earned and for what period of time?

18 A. It's like I said before, that there are
19 three or four -- number 1, is when I grieved the
20 promotion of Paul Morris. I'm not sure when he was
21 promoted. And I'm not sure if when they said he was
22 -- the promotion was just rescinded. I'm not sure if
23 that was the date that it was rescinded.

24 So until we can legally find out --

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1 find out what occurred and when it started and when
2 it terminated, then as far as making an evaluation
3 and the calculation of what that income should be.

4 If -- all I know is, it was supposed
5 to be rescinded, and he went on to other positions.

6 That's -- the situation I gave was we
7 were standing with UBMS, my coworker and myself, and
8 we weren't offered the acting position as the Program
9 Manager, Brigitte Brown or myself. That's what I
10 felt was retaliation. We were both qualified.

11 Q. Your claim of emotional, mental and
12 psychological injuries --

13 A. That's not me. I'm claiming no
14 psychological. That's --

15 Q. Turn to page 9 of your Answers to
16 Interrogatories.

17 Question 8, top of the page, describe
18 in detail any and all emotional, mental and/or
19 psychological injuries you encountered due to conduct
20 of Defendant.

21 Answer: Plaintiff has suffered mental
22 anguish, degradation and humiliation.

23 A. I'm sorry. What number is that?

24 Q. Page 9, paragraph eight.

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1 A. Okay. I agree with that.

2 Q. You have received no treatment from any
3 physician, psychologist, psychiatrist or other
4 healthcare provider for the mental anguish,
5 degradation and humiliation you claim to have
6 suffered; is that correct?

7 A. Correct. That is correct.

8 Q. Describe to me the physical manifestations
9 of this mental anguish, degradation and humiliation
10 claim?

11 How has it physically manifested
12 itself?

13 A. The physical -- humiliation is something
14 you experience or you go through. Degradation is
15 something you feel degraded, not necessarily for
16 medical treatment. You don't need -- I don't think
17 you need medical treatment.

18 I tend to be a strong individual. I
19 tend to not need medical treatment, but I still feel
20 humiliated.

21 Q. But, actually, that wasn't my question.
22 So let's go back to my question so we can get an
23 answer to my question instead of the response you
24 gave.

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1 My question is, what physical
2 manifestations, if any, are there of this mental
3 anguish, degradation and humiliation?

4 A. I can't think of any.

5 Q. Have you been treated by any kind of a
6 physician, healthcare provider, or any physician
7 other than the illness that you --

8 A. None.

9 Q. -- described in August of 2002?

10 A. None.

11 Q. And I assume that that illness was
12 unrelated to anything that happened as alleged in
13 this lawsuit?

14 A. Correct. Yes.

15 Q. If you turn to page 10, paragraph 11 at
16 the bottom --

17 A. Uh-huh.

18 Q. -- you talk about the fact that you filed
19 three grievances. Those grievances all related to
20 what we've been referring to as Paul Morris'
21 promotion, did they not?

22 A. Yes.

23 Q. Page 11, paragraph 13, which asks you to
24 describe in detail every action taken by the

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1 Defendant which you claim was motivated by an intent
2 to discriminate on the basis of race.

3 You talked about the promotion of Paul
4 Morris. We've already talked about that.

5 You also talked about the acting
6 position of Jacquita Wright Henderson. In what way,
7 first of all, was that an action that, in your view,
8 that was motivated by an attempt to discriminate on
9 the basis of race?

10 A. Yes, and retaliation.

11 Q. In what way did it discriminate against
12 you on the basis of race?

13 A. I think that it's the same system of Ann
14 and Sue, placed a black person over the UBMS group
15 which are primarily black.

16 Q. So placing a black person over that group
17 was an act of discrimination against you on the basis
18 of your race?

19 A. No, that's not what I'm saying. I'm
20 saying that there's -- I think that the
21 discrimination was covert. The retaliation was
22 overt. The discrimination came from Ann and Sue, the
23 system, using a black person to put in a position
24 over qualified applicants sitting in place. We were

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1 qualified. She's qualified. I'm qualified.

2 So what better way to strategically
3 put somebody over a group, then to do it that way.

4 Q. So in that case the college should have
5 avoided discriminating against you by placing a white
6 person in that position?

7 A. No, the college should have offered
8 Brigitte Brown or myself an opportunity to act in
9 that position.

10 Q. Are you saying that you're more qualified
11 than Jacquita Wright Henderson now?

12 A. I felt I'm more qualified, yes, at that
13 time.

14 Q. So the only decision the college could
15 make which, in your view, was not discrimination
16 basically was to promote you or Brigitte Brown?

17 A. I'm sorry.

18 Q. The only decision the college could make
19 that was not, in your view of the world be based upon
20 discrimination basically would have been to promote
21 you or to promote Brigitte Brown?

22 A. That's the choice they made. I'm not
23 saying it's the only decision. I'm just saying,
24 that's the choice that they made.

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1 Q. Other than that choice of placing you or
2 Brigitte Brown in the acting position, how could the
3 college, in your view, have avoided discrimination
4 against you on the basis of race in making the
5 decision of who was going to have the acting
6 position?

7 A. I think that the college should have
8 offered, and if you look at other situations at the
9 college where a certain person that's existing and
10 when it creates a vacancy, this person moves up to
11 become acting in Educational Talent Search, for
12 instance. Why wasn't it offered to, an acting
13 position, to Brigitte Brown or myself.

14 Q. So anything but that decision
15 discriminated against you on the basis of race, no
16 matter who was placed in that position?

17 MS. BREWINGTON: Objection.

18 BY MR. WILLIAMS:

19 Q. Is that your position?

20 A. My position is Sue and Ann retaliated
21 against the UBMS group and placed -- strategically
22 placed Ann -- I mean, placed Jacquita Wright
23 Henderson over us as an acting.

24 Q. Mr. Cole, the next Interrogatory asks

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1 about retaliation. That's not what this question
2 asked.

3 A. Okay.

4 Q. It asked about an intent to discriminate
5 on the basis of race, not on the basis of
6 retaliation.

7 I'm trying to understand how the
8 college could have avoided, in your view,
9 discrimination on the basis of race in making this
10 decision?

11 A. I think the college should have offered
12 Brigitte Brown or myself the position of acting
13 Program Manager for Upward Bound Math Science.

14 Q. And any other decision, including placing
15 a black employee in the acting position resulted in
16 discrimination on the basis of your race?

17 Any decision other than placing you or
18 Brigitte Brown equals discrimination on the basis of
19 race?

20 A. I'm looking at the evidence at that time,
21 what occurred at that time. If it was a different
22 circumstance where I felt that there weren't any
23 retaliation and other issues that were previous to
24 that, then placing anybody -- I mean, placing

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1 Jacquita or someone else, I just felt that we were
2 both qualified. Why weren't we afforded the
3 opportunity to be acting.

4 Q. And you think it was because of your race;
5 that's why you weren't afforded the opportunity?

6 A. Absolutely. I said, I felt it was covert.

7 Q. Let me approach it this way: The college
8 could have avoided discriminating against you on the
9 basis of your race, by placing you in the acting
10 position. That's one way the college could have
11 avoided racial discrimination, correct?

12 A. I'm qualified, yes. She's qualified, yes.

13 Q. And the other way the college could have
14 avoided discrimination against you on the basis of
15 race is by placing Brigitte Brown in the acting
16 position?

17 A. Yes, minimize any charges.

18 Q. Tell me what other way could the college
19 have avoided discriminating against you on the basis
20 of your race other than the two ways that I've given
21 you previously?

22 A. I don't understand your specific question.
23 Help me out here, ask that again.

24 Q. Anything other than placing you in the

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1 acting position or placing Brigitte Brown in the
2 acting position would discriminate against you on the
3 basis of your race?

4 A. I'm looking at that particular point in
5 time.

6 Q. Is the answer to my question yes?

7 A. I'm looking at that particular point in
8 time.

9 Q. Tell me how else the college could have
10 avoided discriminating against you on the basis of
11 race.

12 A. Promoted Brigitte Brown -- I'm sorry, I'm
13 not familiar, strike.

14 Place Brigitte Brown in --

15 Q. You don't get to say strike. Just the
16 lawyers get to say that.

17 A. Place Brigitte Brown in the acting
18 position or Ken Cole in the acting position.

19 Q. And the next thing you talked about in an
20 Answer to Interrogatory 13 is the promotion of Andrea
21 Collins. Do you see that?

22 MS. BREWINGTON: Andrea Coleman.

23 THE WITNESS: No, she's --

24 MS. BREWINGTON: Oh, so it is Collins?

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1 THE WITNESS: It's Coleman and, then
2 Collins.

3 BY MR. WILLIAMS:

4 Q. At that time maybe her name was Coleman.
5 Now, it's Collins.

6 But you refer to the promotion of
7 Andrea Coleman?

8 A. Absolutely. I don't know. I don't know
9 whether it was a promotion, but, yes.

10 Q. Did you apply for that position?

11 A. I'm not even sure if it was posted.

12 Q. Did you apply for that position?

13 A. I'm not sure if it was posted. How can I
14 apply for something if it's not posted?

15 Q. Well, either you applied or you didn't
16 apply. Did you apply for the position?

17 A. What position are you talking about? I'm
18 sorry, but --

19 Q. You complained --

20 A. She came over -- Andrea Coleman Collins
21 came over, a lateral move. It wasn't posted that I
22 knew of.

23 Q. Did you apply for the position? My
24 question isn't, was it posted. Did you apply for the

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1 position?

2 A. Oh, at any time?

3 Q. Yes.

4 A. No. I'm sorry.

5 Q. The next page, page 12, paragraph 15, asks
6 you to describe in detail each of the promotions and
7 transfers referred to in paragraph 75 of the
8 Complaint.

9 The first question is the Paul Morris
10 situation. The second one is Jacquita Wright
11 Henderson, which we've talked about. Andrea Coleman,
12 which we've talked about and Roseanna Brown-Simmons
13 was transferred without offering the position to the
14 Plaintiff.

15 How was the college supposed to know
16 that you had an interest in a full-time position?

17 A. They're not. They're supposed to post it
18 or place a person in an acting position from six
19 months to a year, depending on their -- I mean, this
20 is based on the policies.

21 Q. The fact is that during your employment by
22 the college, you never did anything which
23 communicated to management officials a desire to hold
24 a full-time position?

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1 A. I don't discuss my personal goals with --
2 go on up and discuss it with -- I don't know what you
3 mean by management, but --

4 Q. Well, let's start here. You never held a
5 full-time position. You always held a part-time
6 position, correct?

7 A. Yes.

8 Q. And you made it known that you had a
9 business interest outside of your part-time position
10 with the college; that was known?

11 A. In addition to interest in Special
12 Programs Director.

13 Q. You never applied for a full-time position
14 in all your years at the college?

15 A. No.

16 Q. Who would testify to verify that you had
17 suffered this emotional pain and humiliation and
18 degradation?

19 A. Brigitte Brown.

20 Q. Who else?

21 A. REDACTED

22 Q. Who else?

23 A. I think that's about it that I can think
24 of.

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1 Q. Incidentally, I'm correct, or am I correct
2 in my understanding that Jacquita Wright Henderson,
3 Andrea Coleman, now Collins, and Roseanna
4 Brown-Simmons are all African American?

5 A. Yes.

6 Q. After you moved to the Room 408, did you
7 call the Fire Marshal?

8 A. No.

9 Q. Were you aware of the fact that the Fire
10 Marshal inspected Room 408?

11 A. Yes, but I'm not sure -- I know I heard it
12 again yesterday, but I'm not sure when I heard it
13 again prior to yesterday.

14 Q. Has there been a determination by anyone
15 outside the college that there is a safety problem
16 with Room 408?

17 A. Has it been determined by anyone?

18 Q. Yes.

19 A. Well, I heard it through testimony, and
20 I'm not sure where I heard it, but -- oh, yes, the
21 Department of Labor. I think it was submitted to the
22 Department of Labor.

23 Q. What was submitted to the Department of
24 Labor?

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1 A. The -- whatever you asked me. You asked
2 me -- I think you asked me if the results of the Fire
3 -- the Fire Inspector's results, were they -- did I
4 see the documentation of the findings.

5 Q. Well, that was two or three questions ago.
6 The question that's pending now is, are you aware of
7 any agency outside the college which has determined
8 that there's a safety issue with Room 408?

9 A. That there is a safety issue?

10 Q. Yes.

11 A. No.

12 Q. In Room 408 you have furniture? You have
13 a desk and a chair?

14 A. Yes.

15 Q. Computer?

16 A. Yes.

17 Q. What other equipment is in that room? Fax
18 machine?

19 A. No, there's no fax machine.

20 Q. Is that in the side office, the small side
21 office?

22 A. No, we don't utilize that.

23 Q. Is there a fax machine there?

24 A. I'm not so sure any more because it

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1 doesn't have a dedicated fax line, so we have to go
2 to Room 430.

3 Q. But you have your own computer?

4 A. Yes.

5 Q. Phone?

6 A. Yes.

7 Q. The equipment that you have is similar to
8 the equipment that other TRIO employees have?

9 A. Yes, I think we may have a little bit
10 more. I think we have a scanner that Ms. Brown was
11 using.

12 Q. Is there sufficiently lighting in the
13 room?

14 A. Yes.

15 Q. It is, in fact, a room. It's not --
16 you're not sitting out in the hallway?

17 A. Say again.

18 Q. It is, in fact, an enclosed room. You're
19 not sitting out in the hallway?

20 A. Right.

21 Q. There are two doors in and out?

22 A. Yes.

23 Q. It's your belief, obviously, that Room 408
24 is an uncomfortable place to work?

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1 A. I'm sorry. Repeat that, please.

2 Q. Is it your belief that Room 408 is an
3 uncomfortable place to work?

4 A. Yes, absolutely. It's just -- that's just
5 a light term. Yes, no doubt about it. I think it's
6 a little bit stronger than uncomfortable, but.

7 Q. Have you ever been disciplined by the
8 college?

9 A. No.

10 Q. Have you been threatened with termination?

11 A. Yes.

12 Q. That was in connection with the medical
13 documentation?

14 A. Yes.

15 Q. The numbers of hours you were working per
16 week, did that change as a result of your move to
17 408?

18 A. Direct result, it has changed. My hours
19 have changed.

20 Q. The start time?

21 A. The start time. I don't understand your
22 question.

23 Q. The starting time of your hours is that
24 what has changed?

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1 A. Yes.

2 Q. The move to Room 408 did not result in the
3 loss of salary or pay?

4 A. No.

5 Q. As a part-time employee, do you receive
6 benefits?

7 A. No.

8 Q. Did you receive benefits before you were
9 moved to Room 408?

10 A. No.

11 Q. Did your title change as a result of the
12 move?

13 A. No.

14 Q. Did your responsibilities change?

15 A. No.

16 MR. WILLIAMS: Give me a few minutes
17 and I'll check through and make sure I don't have any
18 other questions.

19 MS. BREWINGTON: That's fine.

20 (Recess)

21 BY MR. WILLIAMS:

22 Q. Mr. Cole, are you able to point to or
23 refer me to any document which indicates that
24 Jacquita Wright Henderson was acting Program Manager?

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1 You said that in your Complaint and
2 Answers to Interrogatories.

3 A. Not in your -- I don't know if it's in
4 your possession, but I have -- there are monthly
5 reports that we are to fill out. And she did it --
6 the PM is supposed to do it just like the SEC, the
7 Student Enrichment Coordinator's office.

8 So there are monthly reports that
9 would show that she was in that acting position.

10 Q. Monthly reports that you filled out, or
11 that she filled out?

12 A. No, that she -- she did.

13 Q. Do you have those in your possession?

14 A. They would be at the office at Del Tech in
15 the Monthly Report Book.

16 Q. Do you have those in your possession? I
17 just need a yes or no.

18 A. Yeah, I guess I have them. I'll make
19 copies.

20 Q. Can you provide that, at least samples of
21 those reports to your counsel?

22 A. Yes.

23 Q. Isn't it a fact that the acting position
24 which she held was the position of Acting Assistant

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1 Director of CCP?

2 And by her I mean Jacquita Wright
3 Henderson.

4 A. We were told, and I'm quite sure that she
5 mentioned a couple times, and the instructors and the
6 summer staff and UBMS, Brigitte, Liz Wilson and
7 myself, she was kind of -- it was announced or she
8 identified herself as the Acting Program Manager for
9 UBMS.

10 Q. You're saying that Jacquita Wright
11 Henderson announced -- or described herself that way?

12 A. Yes, she came into the office and she
13 announced that she was the acting UBMS Program
14 Manager.

15 Q. Who replaced Ann Del Negro when she left
16 to go to Georgetown?

17 A. Who replaced Ann Del Negro. To my
18 recollection there was a cascade effect. When Ann
19 left, Jacquita Wright Henderson was made Acting
20 Director to CCP. That created a vacancy and, then I
21 think Paul was made Acting Department Chair of TRIO,
22 whatever position he had, and that created a vacancy
23 and, then Roseanna Brown Simmons was made acting in
24 Educational Talent Search.

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1 Q. Wasn't Jacquita Wright Henderson Acting
2 Assistant Director of CCP during the last year or so
3 when REDACTED was the Program Manager?

4 A. I'm sorry. Would you repeat that.

5 Q. Wasn't Jacquita Wright Henderson the
6 Acting Assistant Director of CCP during the last year
7 or so when REDACTED was Program Manager of
8 UBMS?

9 A. Well, I don't know the dates, but I do
10 know that it was announced to us that she was the
11 Acting Program Manager for Upward Bound Math Science
12 right around February of '04, because REDACTED ,
13 which we were under the impression that she
14 resigned February 5th, 2004.

15 And sometime thereafter -- because she
16 would go with us to the -- a few times to schools,
17 ride with us in the car, the State car, to go to the
18 school.

19 And whatever title she had, all I know
20 is that it was announced to us that she was the
21 Acting Program Manager, and the monthly reports show
22 the time that's dedicated to the UBMS Program.

23 Q. Isn't it also a fact that a few months
24 after REDACTED left in 2004, the UBMS Program

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1 Manager position was posted?

2 A. Yes.

3 Q. And you didn't apply?

4 A. No.

5 Q. Did you ever submit a request to be
6 transferred?

7 A. No.

8 Q. Was it your understanding that the college
9 transferred employees who expressed an interest in
10 being transferred?

11 A. I'm sorry. Repeat that.

12 Q. Well, is it your understanding that the
13 college transferred people who volunteered to be
14 transferred as opposed to involuntarily transferred
15 people?

16 A. To be honest with you, it's so
17 inconsistent, I don't know. I know that that's
18 policy, but I see violations of it, of the policy,
19 when it comes to transfer versus acting versus
20 promotion.

21 Q. Is it your understanding of the policy
22 that an employee submits a transfer request and, then
23 the college, if it chooses to do so, acts upon that
24 request?

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1 A. I don't know.

2 Q. In any event, you never submitted such a
3 transfer request?

4 A. No.

5 Q. And if Andrea Coleman submitted a transfer
6 request, and was transferred as a result of that
7 request, you wouldn't be in a position to dispute
8 that one way or the other, would you?

9 A. No, but I still felt that it was --
10 regardless of how it came about, it placed a person
11 over UBMS, and I felt that we were qualified and that
12 we should have been afforded the opportunity to act
13 in the position.

14 Q. Even though you didn't submit a transfer
15 request?

16 A. I didn't say, transfer. I said, acting in
17 that position.

18 Q. Well --

19 A. Jacquita Wright Henderson was afforded the
20 opportunity to act in her position.

21 REDACTED was afforded the
22 opportunity to act in her position.

23 Paul Morris was afforded the
24 opportunity to act in his position.

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1 Why wasn't any Upward Bound members
2 afforded the opportunity to act in their position?

3 Q. You complained about Andrea Collins'
4 transfer?

5 A. Yes.

6 Q. She submitted a transfer request. You did
7 not?

8 MS. BREWINGTON: Objection. Asked and
9 answered.

10 BY MR. WILLIAMS:

11 Q. Is that correct?

12 A. I didn't. I can only speak for Ken. No,
13 I didn't submit one, and I answered that already.

14 Q. Roseanna Brown Simmons, same thing. If
15 she submitted a transfer request and it was granted,
16 you didn't submit a transfer request?

17 A. You can submit any mechanism you want to,
18 but we weren't afforded the opportunity.

19 Q. Well, in other words, you expected the
20 college to know that you wanted to be transferred
21 even though you didn't request to be transferred?

22 MS. BREWINGTON: I'm going to object
23 to that as argumentative.

24 MR. WILLIAMS: I have no further

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1 questions at this time.

2 I'm not sure what's -- I think we have
3 woefully incomplete Answers to Interrogatories and
4 discovery. I don't know what's going to happen with
5 that, but I reserve the right to recall the witness
6 depending upon what the Court does with that issue,
7 as I did yesterday.

8 (Signature not waived)

9 (Whereupon, the deposition was
10 concluded at 4:40 p.m.)

11

12 I HAVE READ THE FOREGOING DEPOSITION,
13 AND IT IS TRUE AND CORRECT TO THE BEST OF MY
14 KNOWLEDGE.

15

16

17

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Deposition of KENNETH COLE

Date: February 7, 2006

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EXHIBITS

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No. 1	Copy of Complaint	42
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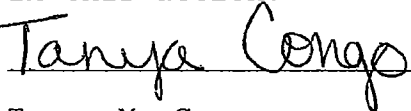
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C E R T I F I C A T I O N

I, TANYA M. CONGO, Certified Shorthand Reporter, certify that the foregoing is a true and accurate transcript of the foregoing deposition, that the witness was first sworn by me at the time, place and on the date herein before set forth.

I further certify that I am neither attorney nor counsel for, not related to nor employed by any of the parties to the action in which this deposition was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, or am I financially interested in this action.



Tanya M. Congo

Certified Shorthand Reporter and Notary Public of the State of Delaware, #189-PS